

### **REMARKS**

The following remarks are made in response to the Office Action mailed December 28, 2006. Claims 1-10 and 18-23 were rejected. Claims 11-17 and 24 were objected to. Claims 1-24 remain pending in the application and are presented for reconsideration and allowance.

#### **Double Patenting**

Claims 1, 2, and 21 are provisionally rejected on the ground of nonstatutory double patenting over claim 17 of co-pending Application No. 2003/0023928. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

Because the rejection is provisional, Applicants respectfully request that this rejection be held in abeyance until the patenting of the conflicting claim or until the Examiner determines that claims of the present application are in a form for allowance. Applicants respectfully reserve the right to traverse the rejection in a later response.

#### **Claim Rejections under 35 U.S.C. § 102**

Claims 1-10 and 18-23 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 2005/0144551 (Nahas).

Applicants are filing herewith a Declaration under 37 C.F.R. 1.131 to swear behind Nahas as prior art. Applicants respectfully request approval of this Declaration under 37 C.F.R. 1.131 and, based on this Declaration, that Nahas be removed as a prior art reference under 35 U.S.C. § 102(e). Accordingly, Applicants respectfully request withdrawal of the rejections to claims 1-20 under 35 U.S.C. § 102(e).

#### **Claim Objections**

Claims 11-17 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Amendment and Response**  
Applicant: Kenneth Smith et al.  
Serial No.: 10/743,662  
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Docket No.: 10013804-1  
Title: MRAM WITH CONTROLLER

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-24 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-24 is respectfully requested.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to either N. Brian Short at Telephone No. (408) 888-9830 or Christopher P. Kosh at Telephone No. (512) 241-2403, Facsimile No. (512) 241-2409. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,  
Kenneth Smith et al.

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